

the references of record whether taken individually or in combination with each other.

Particularly, amendments were made to claims 2-19 and 21-23 to more clearly recite that the present invention provides a packet communication apparatus and method for transmitting a packet from a first network to a second network, wherein the packet includes a destination internet protocol (IP) address, and a first Virtual Private Network (VPN) identifier used to compose a first VPN in the first network. According to the present invention the packet communication apparatus includes a packet generating unit which generates a second VPN identifier used to compose a second VPN in the second network based on the destination IP address and the first VPN identifier, and a transmitter which transmits a packet having added thereto the second VPN identifier. According to the present invention the first and second networks are networks that implement the IP.

The unique features of the present invention, for example, as recited in each of the claims are generating the second VPN identifier based on a destination IP address and a first VPN identifier. Using these features the present invention is able to implement VPN interworking, for example, as described on page 6, lines 22-23 of the present application.

The above described features of the present invention are not taught or suggested by any of the references of record whether taken individually or in combination with each other. Particularly, the above described features of the present invention as now more clearly recited in the claims are not taught or suggested by McCloghrie or Chen.

McCloghrie discloses local area network (LAN) switch interworking between virtual local area networks (VLAN's) by using a VLAN management identifier (ID) (see McCloghrie's spec. col. 4 line 62 – col. 5 line 4).

Chen discloses interconnected IP networks that route packets based on an IP address (see Chen's spec. col. 4 line 25-31 and col. 5 lines 2-13).

McCloghrie discloses VLAN technology which identifies the outgoing tag by using only database 205, wherein the database includes only correspondence information of VLAN management IDs (specific Layer 2 information) of different VLANs (see McCloghrie's spec. col. 4 line 62 - col. 5 line 4). However, Chen discloses basic IP routing technology which identifies the outgoing port based on IP address (typical Layer 3 information) which is well known as basic "routing" (see Chen's spec. col. 4 line 25-31, col. 5 line 2-13).

Thus, each of McCloghrie and Chen identifies the destination of data by using only Layer 2 or Layer 3 information, and each information is sufficient for each technology to transmit data. Furthermore, IP routing as taught by Chen is a basic technology for IP network interworking, and VLAN is an enhanced technology that allows a network to identify the destination of data without Layer 3 information (see McCloghrie's VLAN management IDs table 205). Therefore, considering the objective and intent of these different technologies, there is neither motivation nor suggestion for combining basic IP technology and enhanced VLAN technology in the manner suggested by the Examiner in the Office Action. In fact, these different technologies teach away from each other and as such cannot be easily combined in the manner suggested by the Examiner in the Office Action.

Accordingly, Applicants again hereby submit that McCloghrie cannot be combined with Chen in the manner suggested by the Examiner in the Office Action.

However, even if McCloghrie is combined with Chen in the manner suggested by the Examiner in the Office Action, the combination still does not teach or suggest any unit and any step for generating the second VPN identifier based on the destination IP address and the first VPN identifier as in the present invention as recited in the claims.

McCloghrie only teaches a VLAN management ID table 205 the use of which by the switch determines the outgoing VLAN management ID (= VLAN tag) based on only incoming VLAN management ID, whereas Chen only teaches basic IP routing technology in which the router determines the destination based on only destination IP address.

Thus, both McCloghrie and Chen fail to teach or suggest a packet generating unit which generates a second VPN identifier used to compose a second VPN in the second network based on the destination IP address and the first VPN identifier as recited in the claims.

Further, both McCloghrie and Chen fail to teach or suggest a transmitter which transmits a packet having added thereto the second VPN identifier wherein the first and second networks are networks implement the internet protocol (IP) as recited in the claims.

Therefore, since both McCloghrie and Chen suffer from the same deficiencies relative to the features of the present invention as recited in the claims, combining McCloghrie and Chen in the manner suggested by the Examiner in the Office Action still fails to teach or suggest the features of the

present invention as now more clearly recited in the claims. Accordingly, reconsideration and withdrawal of the 35 USC §103(a) rejection of claims 2-19 and 21-23 as being unpatentable over McCloghrie in view of Chen is respectfully requested.

In the Office Action the Examiner attempts to address the arguments as set forth in the July 11, 2006 Amendment by Applicants that there is no reason to combine the teachings of McCloghrie and Chen in the manner suggested by the Examiner in the Office Action. In response, the Examiner simply sets forth an unsupported argument that:

"In this case, IP networks are widely used in the art and implementing the method of McCloghrie in the IP environment of Chen would have been obvious to one of ordinary skill in the art at the time the invention was made".

However, the case law cited by the Examiner, namely *In re Fine* and *In re Jones* specifically require the Examiner to point to some objective teaching either of the references that support that allegation that the references can be combined as suggested in the Office Action. The Examiner's simple, unsupported allegation is not enough. The references themselves must objectively disclose that a combination is possible and the Examiner must point to said objective teaching in either one of the reference to support his allegation. Otherwise, the rejection falls as being an improper attempt to make a *prima facie* case as required by the case law.

Further, in the Office Action the Examiner attempts to address Applicants argument that McCloghrie does not teach generating a second VPN identifier to compose a second VPN in the second network based on the destination and the first VPN identifier. The Examiner points to an allege

teaching in col. 1, lines 60-65 of McCloghrie to support his allegation that McCloghrie teaches this feature of the present invention. However, col. 1, lines 50-65 does not teach or suggest any such feature as recited in the claims. This teaching of McCloghrie simply describes how frames are routed. There is absolutely no teaching or suggestion how a VPN identifier is generated as in the present invention as recited in the claims. The present invention as recited in the claims recites a specific method as to how the second VPN identifier is generated. Such is clearly not taught or suggested by McCloghrie. The Examiner's reliance on col. 1, lines 50-65 is simply misplaced.

Therefore, as per the above, since both McCloghrie and Chen suffer from the same deficiencies relative to the features of the present invention as recited in the claims, combining McCloghrie and Chen in the manner suggested by the Examiner in the Office Action still fails to teach or suggest the features of the present invention as now more clearly recited in the claims. Accordingly, reconsideration and withdrawal of the 35 USC §103(a) rejection of claims 2-19 and 21-23 as being unpatentable over McCloghrie in view of Chen is respectfully requested.

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references utilized in the rejection of claims 2-12.

In view of the foregoing amendments and remarks, applicants submit that claims 2-19 and 21-23 are in condition for allowance. Accordingly, early allowance of claims 2-19 and 21-23 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (501.37526CX1).

Respectfully submitted,

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